DEPARTMENT OF REVENUE

CHAPTER 32

NATURAL RESOURCES

Subchapter 1

Resource Indemnity Trust Tax

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Resource Indemnity Trust Tax

42.32.101 DEFINITIONS (TRANSFERRED) (History: Sec. 15-1-201, MCA; IMP, 15-38-103, 15-38-105, MCA; NEW, Eff. 4/6/74; AMD, 1982 MAR p. 2178, Eff. 12/31/82; AMD, 1988 MAR p. 1893, Eff. 8/26/88; AMD, 2000 MAR p. 2988, Eff. 10/27/00; TRANS, to ARM 42.25.1501, 2013 MAR p. 180, 2/1/13.)

42.32.102 APPLICABILITY (TRANSFERRED) (History: 15-1-201, MCA; IMP, 15-38-105, MCA; NEW, Eff. 4/6/74; AMD, 1982 MAR p. 2178, Eff. 12/31/82; TRANS, to ARM 42.25.1502, 2013 MAR p. 180, 2/1/13.)

42.32.103 COMPUTATION OF TAX (TRANSFERRED) (History: 15-1-201, MCA; IMP, 15-38-105, MCA; NEW, Eff. 4/6/74; AMD, 1982 MAR p. 2178, Eff. 12/31/82; TRANS, to ARM 42.25.1503, 2013 MAR p. 180, 2/1/13.)

42.32.104 RESPONSIBILITY FOR FILING FORMS AND PAYING TAX (TRANSFERRED) (History: 15-1-201, MCA; IMP, 15-38-104, MCA; NEW, Eff. 4/6/74; AMD, 1992 MAR p. 1766, Eff. 8/14/92; TRANS, to ARM 42.25.1504, 2013 MAR p. 180, 2/1/13.)

42.32.105 SUPPLEMENTAL INFORMATION (TRANSFERRED) History: 15-1-201, MCA; IMP, 15-38-105, MCA; NEW, Eff. 4/6/74; AMD, 1992 MAR p. 1766, Eff. 8/14/92; TRANS, to ARM 42.25.1505, 2013 MAR p. 180, 2/1/13.)

42.32.106 MINIMUM TAX AND ANNUAL EXEMPTION (TRANSFERRED) (History: 15-1-201, MCA; IMP, 15-38-104, MCA; NEW, Eff. 4/6/74; AMD, 1992 MAR p. 1766, Eff. 8/14/92; TRANS, to ARM 42.25.1506, 2013 MAR p. 180, 2/1/13.)

42.32.107 COMPUTATION OF GROSS VALUE (TRANSFERRED) (History: 15-1-201, MCA; IMP, 15-38-104, 15-38-105, MCA; NEW, 1988 MAR p. 2411, Eff. 11/11/88; AMD, 1992 MAR p. 1766, Eff. 8/14/92; AMD, 2000 MAR p. 2988, Eff. 10/27/00; TRANS, to ARM 42.25.1507, 2013 MAR p. 180, 2/1/13.)

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Sub-Chapter 1

Resource Indemnity Trust Tax

42.32.101 DEFINITIONS The following definitions apply to this chapter:

(1) "Mineral" as used for resource indemnity trust tax purposes, means any precious stones or gems, gold, silver, copper, coal, lead, scoria, travertine, petroleum, natural gas, oil, uranium, or other nonrenewable merchantable products extracted from the surface or subsurface of the state of Montana, including sand and gravel. (History: Sec. 15-1-201, MCA; IMP, Sec. 15-38-103 and 15-38-105, MCA; NEW, Eff. 4/6/74; AMD, 1982 MAR p. 2178, Eff. 12/31/82; AMD, 1988 MAR p. 1893, Eff. 8/26/88; AMD, 2000 MAR p. 2988, Eff. 10/27/00.)

42.32.102 APPLICABILITY (1) Minerals which are stockpiled or otherwise placed in storage in the same form as when extracted or produced are not subject to the tax until refined, treated, or sold. (History: Sec. 15-1-201, MCA; IMP, Sec. 15-38-105, MCA; NEW, Eff. 4/6/74; AMD, 1982 MAR p. 2178, Eff. 12/31/82.)

42.32.103 COMPUTATION OF TAX (1) The resource indemnity trust tax is computed on the gross value of the mineral at the time of extraction from either the surface or subsurface of the earth.

(2) Producers may not reduce gross value for any costs or expenses of bringing minerals to mine mouth. (History: Sec. 15-1-201, MCA; IMP, Sec. 15-38-105, MCA; NEW, Eff. 4/6/74; AMD, 1982 MAR p. 2178, Eff. 12/31/82.)

42.32.104 RESPONSIBILITY FOR FILING FORMS AND PAYING TAX

(1) Preparation and filing of the resource indemnity trust tax statement of gross yield and payment of the tax due is the direct and sole responsibility of every individual, partnership, firm, association, joint stock company, syndicate, or corporation who engages in or carries on the business of mining, extracting, or producing a mineral, as defined in Title 15, chapter 38, MCA.

(2) This responsibility may not be delegated or transferred to the owner of the property from which minerals are extracted or produced, if different from the producer, or to the purchaser of the minerals.

(3) A producer who has filed a metal mines license tax return pursuant to Title 15, chapter 37, part 1, MCA, does not also need to file a resource indemnity trust return. Not filing a resource indemnity trust return does not relieve the producer from the obligation to pay the tax. A producer of gold, silver, copper, lead, or any other metal or metals or precious or semiprecious gems or stones who does not file a metal mines license return must file a resource indemnity trust tax return. (History: Sec. 15-1-201, MCA; IMP, Sec. 15-38-104, MCA; NEW, Eff. 4/6/74; AMD, 1992 MAR p. 1766, Eff. 8/14/92.)

42.32.105 SUPPLEMENTAL INFORMATION (1) Attachments may be made to the resource indemnity trust tax statement of gross yield if space is not adequate on the form to provide complete information. Companies using data processing equipment may provide computer printouts to supply the production information if columns and/or totals are properly identified. (History: Sec. 15-1-201, MCA; IMP, Sec. 15-38-105, MCA; NEW, Eff. 4/6/74; AMD, 1992 MAR p. 1766, Eff. 8/14/92.)

42.32.106 MINIMUM TAX AND ANNUAL EXEMPTION (1) The minimum annual tax of $25 is due only once each year from each individual, partnership, firm, association, joint-stock company, syndicate, or corporation who engages in or carries on the business of mining, extracting, or producing a mineral. Likewise the $5,000 reduction of gross value of product may be claimed only once each year by a producer. (History: Sec. 15-1-201, MCA; IMP, Sec. 15-38-104, MCA; NEW, Eff. 4/6/74; AMD, 1992 MAR p. 1766, Eff. 8/14/92.)

42.32.107 COMPUTATION OF GROSS VALUE (1) For all minerals except oil and gas, gross value of product for purposes of the resource indemnity trust tax will be determined at the time of extraction from the ground. The time of extraction is after loading the raw mineral product and before any hauling or transportation occurs.

(2) Gross value of product at the time of extraction will be determined using one of the following methods for each product produced as noted:

(a) For coal, the gross value of the product is the "contract sales price" for the coal severance as stated in 15-35-102, MCA, times the tons produced; except the tonnage exemption defined in 15-35-103, MCA, cannot be claimed in computing the resource indemnity trust tax.

(i) If the department imputes a value for coal pursuant to 15-35-107, MCA, the same imputed value will be used in computing the resource indemnity trust tax.

(b) For talc, the gross value of the product is the tons produced in the year for which a return is filed times the value stated in 15-23-515, MCA.

(c) For vermiculite, the gross value of the product is the tons produced in the year for which a return is filed times the value stated in 15-23-516, MCA.

(d) For gold, silver, copper, lead, or any other metal or metals, or precious, semiprecious gems or stones, of any kind for which a resource indemnity trust tax return is filed, the gross value of the product is the "receipts received" as defined in 15-23-801, MCA.

(e) For lime rock, granite, marble, travertine, phosphate, bentonite, barite and other minerals, rock or stone extracted from underground mines, quarries, or open pits, gross value at the time of extraction will be determined using one of the following methods which are listed in the order they are to be considered:

(i) The producer's actual sales prices for mineral products sold at the time of extraction will be considered the best evidence of value provided the sales are arm's length and represent more than 30% of total mineral production. Sales of less than 30% of total production may be acceptable indicators of value if the sales price per unit is corroborated with other representative market data for minerals of like kind and grade. Upon request, the producer must provide documentation for this method to the department.

(ii) If the producer does not have the sales information discussed in (2)(e)(i) above, a market survey of other producers' sales of like kind and grade mineral products may be done. If this method is used, the producer must obtain market data for three or more other producers. This data must represent the results of competitive transactions in markets with a substantial number of unrelated buyers and sellers. The producer must document that all values used are for minerals of comparable quality sold in quantities approximating the producers level of production. It may also be necessary to consider the geographic area served by the markets used for comparison. All information obtained by the producer to support this method must be provided to the department on request.

(iii) If the information required by (2)(e)(i) or (ii) above is not available, the proportionate profits method may be used to compute a value in the absence of adequate market data. The general formula for this computation is stated below.

$$\text{Taxable value/unit} = \frac{\text{Direct costs through extraction}}{\text{Total direct costs}} \times \text{Sales price/unit}$$

(A) Direct costs through extraction will include overburden removal, drilling, blasting, loading, mine reclamation, royalties and any other direct costs incurred through the loading process.

(B) Total direct costs will include, in addition to those noted above, all direct costs applied to the mineral products up to the point of production of the first marketable product or group of products that have not been manufactured or fabricated. These costs will typically include hauling, sorting, crushing, grinding, drying, smelting, refining, etc. Final reclamation costs related to dismantling facilities may also be included in total direct costs.

(C) The sales price per unit will be the weighted average price of the first marketable product or group of substantially similar products sold in significant quantities by the producer. The first marketable product or group of products will not include manufactured products. For example, a cement producer must use the sales price of bulk cement not the price of concrete blocks he may manufacture from the cement.

(D) Only direct costs may be used in computing the cost ratio for the formula. No costs that benefit the operation as a whole or are not directly related to a specific phase of the mining or processing of the mineral product will be included in the ratio.

(iv) The department may use an alternative valuation method if warranted by an unusual situation.

(3) For oil and gas, gross value of product for the purposes of the resource indemnity trust tax will be determined at the time of extraction at the wellhead. The gross value of product is the total value of all petroleum and other mineral or crude oil or natural gas produced each year. The value is determined by taking the total number of barrels or cubic feet produced each month during such year at the average value at the mouth of the well during the month the product is produced. However, the total value shall be reduced for royalties paid to the United States, the state of Montana, Indians, Indian tribes, a county, or municipal government. (History: Sec. 15-1-201, MCA; IMP, Sec. 15-38-104 and 15-38-105, MCA; NEW, 1988 MAR p. 2411, Eff. 11/11/88; AMD, 1992 MAR p. 1766, Eff. 8/14/92; AMD, 2000 MAR p. 2988, Eff. 10/27/00.)

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